

**MINUTES OF THE JOINT MEETING OF THE
SENATE COMMITTEE ON FINANCE
AND THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Eighty-first Session
February 17, 2021**

The joint meeting of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order by Chair Chris Brooks at 8:02 a.m. on Wednesday, February 17, 2021 Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SENATE COMMITTEE MEMBERS PRESENT:

Senator Chris Brooks, Chair
Senator Moises Denis, Vice Chair
Senator Julia Ratti
Senator Nicole J. Cannizzaro
Senator Marilyn Dondero Loop
Senator Ben Kieckhefer
Senator Pete Goicoechea
Senator Scott Hammond
Senator Heidi Seevers Gansert

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblywoman Daniele Monroe-Moreno, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblyman Jason Frierson
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Sandra Jauregui
Assemblyman Glen Leavitt
Assemblywoman Brittney Miller
Assemblywoman Sarah Peters
Assemblyman Tom Roberts
Assemblywoman Robin L. Titus
Assemblywoman Jill Tolles
Assemblyman Howard Watts

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 2

STAFF MEMBERS PRESENT:

Wayne Thorley, Senate Fiscal Analyst
Alex Haartz, Principal Deputy Fiscal Analyst
Sarah Coffman, Assembly Fiscal Analyst
Brody Leiser, Principal Deputy Fiscal Analyst
Stephanie Day, Senior Program Analyst
Sarah Sawyer, Committee Secretary
Barbara Williams, Committee Secretary

OTHERS PRESENT:

The Honorable James Hardesty, Chief Justice, Nevada Supreme Court
Richard Stefani, Chief Information Officer, Administrative Office of the Courts,
Nevada Supreme Court
Todd Myler, Manager of Budgets, Administrative Office of the Courts,
Nevada Supreme Court
Paul C. Deyhle, General Counsel and Executive Director, Commission on Judicial
Discipline; Standing Committee on Judicial Ethics

CHAIR BROOKS:

First we will hear the Nevada Supreme Court and the budgets for the Judicial Branch. The Judicial Branch is exempt from the State Budget Act. The budgets presented this morning represent the request of the Judicial Branch, not Governor Steve Sisolak's request.

THE HONORABLE JAMES HARDESTY (Chief Justice, Nevada Supreme Court):

My presentation of the Judicial Branch Budget Hearing is ([Exhibit B](#)). On page 2, the total budget is \$140,197,576, of which 66 percent comes from the General Fund and 34 percent from administrative assessments (AA), reserves, federal funds and fees. Of the General Fund request, 55 percent, or slightly more than \$50 million, pays Judicial elected official salaries. The Supreme Court budget is 16 percent of the General Fund request, specialty courts are 10 percent, Court of Appeals is 7 percent, Law Library is 4 percent, Judicial Programs and Services and Judicial Retirement System are each 3 percent, and 2 percent funds the Senior Judge Program.

On page 3, we have made a request for a General Fund increase of \$4,387,939. That figure will have a few downward adjustments as we go through the presentation. Most of the salary increase is to fund the additional judges that were approved by the Legislature in the Eightieth Legislative Session. The increase will also fund an unfunded base salary of \$375,000, Information Technology (IT) infrastructure and performance improvements for approximately \$772,000 and some other adjustments and enhancements of approximately \$141,000.

I believe the Committees are familiar with the issues surrounding AAs. Since this funding source began in 1983, it has been altered 8 of 13 legislative sessions. This is an unstable, unreliable source of funding, particularly during the Covid-19 pandemic. As you can see on page 4 of [Exhibit B](#), the order of collection affects what is ultimately received by the Court. Because a number of fees come off the top, the amount received is reduced. In 2010, the Legislature began to take \$5 from each AA. The county treasurersdenis take \$2 for Juvenile Court and \$7 goes to Municipal and Justice Courts. The remaining amount is divided between the Judicial and Executive Branches.

With the incorporation of Marsy's Law into the State Constitution in 2018, a constitutional requirement exists that restitution be collected on many charges first. If an individual has a duty to pay restitution, those dollars get collected ahead of any AAs they may be liable for.

In the pandemic, the decrease in the AAs as a funding source was severe. While we were meeting the Governor's request for a 12 percent budget reduction from the General Fund, we were sustaining a 33 percent reduction in the amount of AAs. It was much appreciated when the Thirty-first Special Session adjusted some provisions, allowing us to carry forward some of our reserves to help mitigate the consequences of the revenue source reduction.

Page 5 uses a bar graph to illustrate historical and projected AA revenue. For the 2021-2023 biennium, we expect revenue to come close to prepandemic levels, which were already quite a bit lower than 2010, for example.

Page 6 details the other agencies that receive AA revenue. The Attorney General (AG) Council for Prosecuting Attorneys account receives 2 percent and the AG Victims of Domestic Violence account receives 1 percent.

Peace Officer Standards and Training (POST) receives 28 percent, the Criminal History Repository receives 56 percent, and the Victims of Crime Fund receives 13 percent.

The vast majority of enhancements that we are requesting have to do with IT. During the pandemic, the Court has gone to a mostly remote environment. The transition has been successful, and we have been able to maintain our progress on our cases by using the servers for oral arguments and contacts with staff. Essential to the Court's remote business is remote access to the Court's network.

RICHARD STEFANI (Chief Information Officer, Administrative Office of the Courts, Nevada Supreme Court):

The following enhancements affect multiple budget accounts. The remote desktop server request, decision unit E-365, creates a virtual desktop environment for our remote employees to work securely. It applies to budget accounts (B/A) 101-1483, 101-1484, 101-1486, 101-1487, 101-1489, 101-1494, 101-1495 and 101-2889.

LEGISLATIVE/JUDICIAL

JUDICIAL BRANCH

Administrative Office of the Courts — Budget Page JUDICIAL-35 (Volume I)
Budget Account 101-1483

E-365 Promoting Healthy, Vibrant Communities — Page JUDICIAL-40

Judicial Programs and Services Division — Budget Page JUDICIAL-43 (Volume I)
Budget Account 101-1484

E-365 Promoting Healthy, Vibrant Communities — Page JUDICIAL-46

Uniform System of Judicial Records — Budget Page JUDICIAL-49 (Volume I)
Budget Account 101-1486

E-365 Promoting Healthy, Vibrant Communities — Page JUDICIAL-53

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 5

Judicial Education — Budget Page JUDICIAL-56 (Volume I)
Budget Account 101-1487

E-365 Promoting Healthy, Vibrant Communities — Page JUDICIAL-58

Court of Appeals — Budget Page JUDICIAL-20 (Volume I)
Budget Account 101-1489

E-365 Promoting Healthy, Vibrant Communities — Page JUDICIAL-22

Supreme Court — Budget Page JUDICIAL-11 (Volume I)
Budget Account 101-1494

E-365 Promoting Healthy, Vibrant Communities — Page JUDICIAL-16

Specialty Court — Budget Page JUDICIAL-61 (Volume I)
Budget Account 101-1495

E-365 Promoting Healthy, Vibrant Communities — Page JUDICIAL-63

Law Library — Budget Page JUDICIAL-30 (Volume I)
Budget Account 101-2889

E-365 Promoting Healthy, Vibrant Communities — Page JUDICIAL-32

We have many employees using virtual private network technology to access our network. The documents and information used are being stored on those local computers, which is not the most secure fashion to keep data. The proposed solution will allow us to keep all data in-house so nothing is stored on somebody's personal computer or on a laptop that could be lost or stolen.

The decision unit E-240 replaces Adobe LifeCycle and upgrades the desktop publishing suite we use. This system is used by the Supreme Court, B/A 101-1494, the Administrative Office of the Courts (AOC), B/A 101-1483, and the Judicial Program and Services Division (JPS), B/A 101-1484.

E-240 Efficiency & Innovation — Page JUDICIAL-14
E-240 Efficiency & Innovation — Page JUDICIAL-38

E-240 Efficiency & Innovation — Page JUDICIAL-46

Decision unit E-715 upgrades some older servers to the latest Windows server software. Microsoft regularly stops supporting older versions of software and requires us to upgrade to avoid the risk of major security holes. This decision unit applies to the Supreme Court, B/A 101-1494, the AOC, B/A 101-1483, the JPS, B/A 101-1484, and the Uniform System of Judicial Records (USJR), B/A 101-1486.

E-715 Equipment Replacement — Page JUDICIAL-17
E-715 Equipment Replacement — Page JUDICIAL-41
E-715 Equipment Replacement — Page JUDICIAL-46
E-715 Equipment Replacement — Page JUDICIAL-54

Decision unit E-245 rebalances AA revenue and affects the AOC, B/A 101-1483, the USJR, B/A 101-1486, and Judicial Education, B/A 101-1487.

E-245 Efficiency & Innovation — Page JUDICIAL-38
E-245 Efficiency & Innovation — Page JUDICIAL-53
E-245 Efficiency & Innovation — Page JUDICIAL-58

CHIEF JUSTICE HARDESTY:

Court staff has been working with Legislative Counsel Bureau (LCB) Fiscal staff to determine whether the adjustments in decision unit E-245 are necessary at this time. It is necessary for the Court to build a defensive posture against the declining AA revenue. While we normally have a 90-day reserve, we want to increase that to a 120-day reserve to ensure we have adequate funds available to meet obligations.

The changes to the splits in *Nevada Revised Statutes* (NRS) 176.059 do not appear to be necessary at this time. The split of 62 percent to the Judicial Branch and 38 percent to the Executive Branch will remain; however, an adjustment will eventually be needed, either from the expiration of the splits or an adjustment on a permanent basis. A budget Bill Draft Request (BDR) appears to be needed to accomplish that, and we have communicated with the Governor's Finance Office and LCB Fiscal staff on this issue.

ASSEMBLYWOMAN JAUREGUI:

When you started your presentation, you were requesting an increase of approximately \$4.3 million from the General Fund, but your balance forward in the Judicial Branch budget has increased from about \$9.4 million in fiscal year (FY) 2020-2021 to a projected \$11.5 million for the 2021-2023 biennium. Can you clarify why you are requesting an increase when your projected balance forward is growing?

TODD MYLER (Manager of Budgets, Administrative Office of the Courts, Nevada Supreme Court):

Although we have accounts with reserves that are funded by the AAs, we also have other accounts that do not generally have reserves. Budgets whose funds come from the General Fund, such as the Supreme Court, the Law Library and the Senior Judge Program, do not have a reserve. The reserves are mainly in the accounts controlled by the AOC, such as B/A 101-1483, B/A 101-1486, and B/A 101-1487.

ASSEMBLYWOMAN JAUREGUI:

I understood the E-245 decision unit would be eliminated. Can you address this?

MR. MYLER:

This budget was built in September, and at that time it appeared this decision unit was necessary. We have worked with staff after adjustments have been made, and it appears now that it may no longer be needed.

ASSEMBLYWOMAN JAUREGUI:

I know the recommendation is to have reserves for 90 days, and you have requested that be extended to 120 days. Even with the elimination of decision unit E-245, it would appear most of the budgets will have a reserve in excess of 120 days. Why is the request for an exception to the reserve level necessary?

CHIEF JUSTICE HARDESTY:

This is a defensive measure against the unstable nature of AA revenue. We hoped through October we would see a rebound in receipts, but November and December were disappointing. The trend line is not encouraging for the remainder of this fiscal year and calls into question the projections for the 2021-2023 biennium. Expanding the reserve requirement is necessary to protect our budget accounts that are funded through AAs.

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 8

Mr. Myler and LCB Fiscal staff have gone through extensive analysis of the reserves. Having the ability to adjust the dollars between accounts, as was afforded by the Thirty-first Special Session, allows us to smooth this out. Much depends on how it is allocated and what the expenditures are. To maintain a stable set of operating reserves, we need to be able to adjust the funds between accounts.

ASSEMBLYWOMAN JAUREGUI:

Do you expect in the next biennium you may be able to go down to the 90-day reserve limit? Is this just to deal with the unpredictability of the pandemic?

CHIEF JUSTICE HARDESTY:

That is correct.

SENATOR DENIS:

Regarding decision unit E-365, the remote desktop server, am I correct in understanding that, if funded, people working from home are only using their computer as a means of connecting to the system but are actually doing the work on the in-house computer?

MR. STEFANI:

That is correct.

SENATOR DENIS:

Previously, the computing was done on the home computer and an individual was connecting to pull data down from the server. What is the timeframe for implementation?

MR. STEFANI:

Before the pandemic shutdown happened, we had instituted a pilot program. If approved, this project could start in July and hopefully be operational within three to four months.

SENATOR DENIS:

How many agencies use the Multi-County Integrated Justice Information System (MCIJIS)?

MR. STEFANI:

The MCIJIS is a straight exchange system that exchanges data between many different justice partners, such as e-citations, Department of Motor Vehicles (DMV), Department of Public Safety (DPS), and law enforcement. It also includes 35 courts and the Clark County Integrated Justice Information System (CCIJIS) moving warrants to DPS and the repository. When citations and tickets are sent to the court system and adjudicated, the results are automatically sent to DMV. We have well over 50 or 60 partners using the system today, and we expect that to increase.

SENATOR DENIS:

Do you distinguish between those accessing the system simply to retrieve information and those who both input and access data?

MR. STEFANI:

All entities that use MCIJIS are direct justice partners. It is a straight exchange system—it does not store data. Nobody has the ability to look at the system. The system does not store information. It moves the data using Extensible Markup Language from one system to the next.

ASSEMBLYMAN ROBERTS:

I understand it is difficult to project AAs with any accuracy, especially during a pandemic. How do you forecast those revenues, and where do you think the bottleneck is?

CHIEF JUSTICE HARDESTY:

I have been working on the Court's budget since I joined the Court in 2005. One of the more difficult projections is the AA revenue. Much of it depends on the number of tickets written, and we are updated regularly by law enforcement on their status. We monitor cases in the justice and municipal courts that receive AAs.

One of the challenges of the pandemic is that reduced traffic means reduced traffic citations. Collections have also been challenging in the economic conditions brought on by the pandemic. A number of people have requested relief under statutes which allow for providing a community service rather than a payment of AA. Some individuals simply do not pay their AA, which results in bench warrants. Either way, we do not get a collection.

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 10

The order of collections, including the \$5 off the top that goes to the General Fund, also means that the Judicial and Executive branches are the last in line for funds.

I do not know what the Legislature can do about this funding source. In terms of the Supreme Court budget, it would make sense not to rely on AAs as a funding source. There is no correlation between this funding source and the functions of the Supreme Court. We are not involved in traffic citations unless a case is presented to us, yet this source has comprised between 34 percent and 38 percent of the budget since I have been on the Court. I would be happy if the Legislature simply put us in the General Fund. We are doing the best we can to provide projections under current conditions.

ASSEMBLYMAN ROBERTS:

I understand. It is perfectly reasonable to allow the Court to hold larger reserves to carry you over in unpredictable times.

SENATOR DENIS:

Are there agencies outside of MCIJIS that you exchange information with?

MR. STEFANI:

No, we have set MCIJIS as the standard. We have told our partners that if they want to move data electronically, then that is the system to use. We do not force anyone to use it. The Las Vegas Municipal Court writes its own interface and sends data to DMV. The Department of Public Safety exclusively uses MCIJIS, as they do not want to support multiple interfaces. The MCIJIS was developed in-house, and we charge no user or transaction fees. The cost is borne out of B/A 101-1486.

CHAIR BROOKS:

We will now hear the Supreme Court budget, B/A 101-1494.

CHIEF JUSTICE HARDESTY:

I would call your attention to page 10 of [Exhibit B](#). The pandemic has had a significant effect on all of the courts. In the case of the Supreme Court, we have adjusted our projections for FY 2020-2021. The number of filings has declined by 760 cases. The number of cases being transferred to the Court of

Appeals has also gone down. The number of cases resolved has not declined much, but our pending cases have declined significantly.

All pending cases are not necessarily ready to be adjudicated. The number of cases pending is a combination of cases that are still in briefing, those in the civil settlement program, and those that are fully briefed and ready for argument and decision. This is the smallest number of pending cases that I have seen since being on the Court. This reflects the impact of the pandemic on the district courts, the primary source of our work. District courts around the State have not been able to conduct jury trials. I am working with the chief judges of some of the district courts and some of the rural judges to develop a plan to open these courts and get these cases moving. This is a serious justice problem. The number of untried criminal cases around the State is substantial. The number of untried, unresolved civil cases is worse. Working through that backlog will be a serious issue, and we have based our projections for new cases on the assumption that the backlog will begin to clear.

Returning to the Supreme Court B/A 101-1494, all our enhancement decision units are for IT upgrades.

MR. STEFANI:

On page 11, decision unit E-351 is an upgrade to the MCIJIS interface with DPS. Public Safety has been in the process of upgrading the backend of their system. As soon as that is complete, we need to upgrade our system to work with theirs. This enhancement was in the current biennium budget, but DPS did not progress far enough on their upgrade for us to use this enhancement, so we have included it in the upcoming 2021-2023 biennium request.

E-351 Promoting Healthy, Vibrant Communities — Page JUDICIAL-16

We want to add a new document type to MCIJIS with decision unit E-352. This enhancement would enable MCIJIS to transfer temporary protective orders (TPO) directly out of court's case management systems (CMS) instead of the courts having to use two different systems for TPOs.

E-352 Promoting Healthy, Vibrant Communities — Page JUDICIAL-16

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 12

Another decision unit, E-228, is the Ektron replacement. Our websites are hosted on the State's Department of Administration, Division of Enterprise IT Services (EITS) infrastructure. The Division is planning to upgrade its whole backend system and when that happens, we have to upgrade our systems to make them work. We do not know the actual cost of this enhancement until EITS is well underway with their upgrade.

E-228 Efficiency & Innovation — Page JUDICIAL-14

Decision unit E-227 is for e-filing system enhancements, which will update our internal e-filing systems, and E-229 is for public scanning stations to allow the public to e-file directly to the Court.

E-227 Efficiency & Innovation — Page JUDICIAL-13

E-229 Efficiency & Innovation — Page JUDICIAL-14

As with every budget, this one includes an equipment replacement decision unit E-710. This covers computers, printers, batteries and other normal wear and tear on equipment.

E-710 Equipment Replacement — Page JUDICIAL-17

There are several other decision units in B/A 101-1494 that are proposed for elimination or modification that will be discussed next. Those are E-225, E-226, E-248 and E-350.

E-225 Efficiency & Innovation — Page JUDICIAL-13

E-226 Efficiency & Innovation — Page JUDICIAL-13

E-248 Efficiency & Innovation — Page JUDICIAL-15

E-350 Promoting Healthy, Vibrant Communities — Page JUDICIAL-15

CHIEF JUSTICE HARDESTY:

We have a proposed modification for B/A 101-1494, as shown on page 12 of [Exhibit B](#). We have only 7.5 FTE in the Marshals Office. Mr. Myler and LCB Fiscal staff have a remedy that will not create a negative budget consequence.

MR. MYLER:

The proposed modification would add .49 increase in full-time equivalent (FTE) positions. Budget account 101-1494 would increase from 84.51 FTE to 85 FTE and provide us with 8 full-time marshals. We found an imbalance among staff. There was also a security contract in place for temporary security personnel we had been using as full-time personnel—in essence, another FTE in Las Vegas. This proposal reduces that contract by two-thirds.

As mentioned, there are several decision units we propose to eliminate or modify for additional savings. You can see the dollar amounts on page 12 of [Exhibit B](#). This proposal results in a net savings to the General Fund of \$12,603 for the upcoming biennium.

ASSEMBLYWOMAN MONROE-MORENO:

I always appreciate any opportunity to save money and to use our own personnel rather than contractors. Can you explain how the recommended restructure of the Las Vegas Marshals Office, with the reduction in contract security, will result in improved security protection?

CHIEF JUSTICE HARDESTY:

Our Chief Marshal serves as a functioning marshal in addition to his Chief duties. The Chief Marshal was located in Las Vegas. When he retired the question became, Where would the next Chief be located? We wanted the best candidate and are in the process of filling the position now. That process revealed that we were using 2,096 hours of contract work to supplement our staff, more than an FTE.

We deploy four marshals in Carson City and four marshals in Las Vegas. I wanted POST-certified police officers providing the security for both locations. This proposal saves money and improves security by having qualified people patrolling our buildings. Many visitors comment on the beauty of our Las Vegas building, but it is located in an area that has some security challenges. Consequently, the security demands in Las Vegas are higher than in Carson City. We need 4 full-time police officers to provide security for the roughly 60 people who work in the Las Vegas office and the hundreds of people who were coming to the building before the pandemic and who we expect to come back after the pandemic.

ASSEMBLYWOMAN MONROE-MORENO:

As you look to filling the chief position, will you be looking to promote from within? What will be the effect on the Court of the recommended revision or elimination of some of the IT decision units?

CHIEF JUSTICE HARDESTY:

We have started the search process for a new Chief, and have received applications from within and outside the system. We have not made a decision yet, but we have interviewed four capable finalists. I hope to make a decision later this week. The appointment of personnel will be partially based on where the new Chief is located.

The Chief Marshal has line duty as well. They have a lieutenant to assist with some of the training and scheduling duties in both locations. With respect to the decision units that have been identified, we can purchase some of these items this fiscal year with funding made available to us in the Thirty-first Special Session. Because we can do this within the FY 2020-2021 budget, we have savings in the FY 2021-2022 budget.

CHAIR BROOKS:

We will now discuss B/A 101-1489, the Court of Appeals (COA).

CHIEF JUSTICE HARDESTY:

When the COA was created in 2014, we anticipated the three judges would each have two law clerks and a judicial chambers assistant (JCA). Some might equate those duties to a secretary, but they are more akin to a paralegal. We designed it that way because that is how the Supreme Court works. What we have learned in the ensuing years is that the COA has a greater need for staff attorneys than a paralegal.

Decision unit E-238 relates to the reclassification of a JCA to a staff attorney. The purpose of the COA is to engage in the resolution of error correction cases. It is a high-volume court and many of the cases present legal issues that will not produce precedent. As a consequence, the need for secretarial staff in the chambers is much different than for justices on the Supreme Court. The intent of the decision unit is to provide a staff attorney who will help the three judges in the resolution of cases. This decision unit amount is \$32,741 and will increase the capability of the COA to handle cases.

E-238 Efficiency & Innovation — Page JUDICIAL-22

Noting that the staff attorney salaries in chambers are lower than the staff attorneys on the COA staff, we have been in discussion with LCB Fiscal Staff about salary equity. An additional level of supervision is necessary and is addressed by decision unit E-239.

E-239 Efficiency & Innovation — Page JUDICIAL-22

Additionally, there is the normal decision unit E-710 for replacement equipment.

E-710 Equipment Replacement — Page JUDICIAL-23

ASSEMBLYWOMAN GORELOW:

Who is currently performing the legal work that the JCAs are unable to complete?

CHIEF JUSTICE HARDESTY:

Part of the problem has been we would not permit them to work out of class, and they are not licensed attorneys. Because of that, the work is being done by the law clerks and the staff attorneys who support the COA. The COA has both criminal and civil staff attorneys that perform those functions. What we are trying to do is increase the court's output by having attorneys performing these functions and working in class.

ASSEMBLYWOMAN GORELOW:

So would the incumbents not meet the minimum qualification as staff attorneys?

CHIEF JUSTICE HARDESTY:

That is correct, with the exception of one chamber, where an attorney is working at a JCA rate, a situation we want to correct.

ASSEMBLYWOMAN GORELOW:

Would the recommended reclassification result in a potential layoff?

CHIEF JUSTICE HARDESTY:

Yes, it would. I understand that one person desires to go to law school, so that may provide an opportunity as well.

ASSEMBLYWOMAN GORELOW:

Other than processing legal documents and assisting with the writing of legal briefs, are there other benefits the COA anticipates by reclassifying the chambers positions to staff attorneys?

CHIEF JUSTICE HARDESTY:

Those are the benefits we anticipate. The COA has been resolving more than 1,000 cases per year. I want to compare that to the COA in Iowa and Mississippi. Both of those COAs have approximately 15 judges and are resolving about 1,500 cases per year. I am proud of what our COA is doing. This model we adopted has been incredibly productive because of the use of central staff lawyers to support the judges in their decision process. This proposal furthers the effort of increasing that production at the lowest possible cost and without piling on more judges.

SENATOR DONDERO LOOP:

Please explain how the staff attorney supervisor duties would change with decision unit E-239 and what benefits would be gained from an additional level of supervision among staff.

CHIEF JUSTICE HARDESTY:

An attorney with more experience would be supervising the other staff attorneys. Like many professions, new lawyers need more guidance, and that is what we are trying to accomplish.

CHAIR BROOKS:

We go now to B/A 101-1490, Judicial Elected Officials.

State Judicial Elected Officials — Budget Page JUDICIAL-25 (Volume I)
Budget Account 101-1490

CHIEF JUSTICE HARDESTY:

Page 14 of [Exhibit B](#) shows that this budget includes the salary costs for 7 Supreme Court Justices, 3 COA Judges and 90 District Judges. The budget

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 17

reflects the compensation as authorized by the current statutory configuration for compensation to judges.

This page includes a reference to Senate Bill 3.

SENATE BILL 3: Revises provisions relating to judicial compensation and retirement. (BDR 1-392)

I would underscore that the proposal offered to the Legislature in the last Session about a change in judge compensation is not part of our budget request. This is a completely separate bill, and I do not know if it will get a hearing in this Legislative Session.

The next budget is B/A 101-2889, Law Library, found on page 15. The library is one of four public law libraries in the State. Jason Sowards is an extraordinary librarian with a terrific staff. We are seeking to reclassify two of the librarian positions with decision unit E-225. These reclassifications will allow more of the collection of the library to go to digital research, which is the trend now. They would also facilitate more outreach to educate potential library users on the library's offerings and services. Those increased services warrant the reclassifications.

E-225 Efficiency & Innovation — Page JUDICIAL-32

An additional decision unit, E-710, is the normal equipment replacement request.

E-710 Equipment Replacement — Page JUDICIAL-32

I will move on to B/A 101-1483, the AOC, which includes 32 FTEs. Most of the enhancements listed on page 16 relate to IT.

MR. STEFANI:

The first decision unit is E-710, our typical equipment replacement for computers and printers.

E-710 Equipment Replacement — Page JUDICIAL-41

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 18

Another decision unit, E-225, takes our phone system from a hardware-based to a virtual-based system. This phone system was purchased a number of years ago, and the hardware is no longer supported.

E-225 Efficiency & Innovation — Page JUDICIAL-37

Two decision units, E-248 and E-230, will purchase additional OnBase licenses and upgrade Crystal Reports.

E-248 Efficiency & Innovation — Page JUDICIAL-39

E-230 Efficiency & Innovation — Page JUDICIAL-37

The AOC is taking advantage of the OnBase document management system, and these requests support that system. We are trying to move away from paper. The Accounting Unit is completely digital, and the Human Resources Unit is moving in that direction.

We have two developers on site who are certified in OnBase. We have to maintain that certification and they must attend an OnBase conference every two years. That decision unit is E-226.

E-226 Efficiency & Innovation — Page JUDICIAL-37

Decision unit E-360 funds attendance at a Black Hat Security Conference. This keeps staff up to date on security trends and training.

E-360 Promoting Healthy, Vibrant Communities — Page JUDICIAL-39

We use Veeam Software to control backups and ensure consistent and stable data. Decision unit E-361 of B/A 101-1483 covers the VeeamON conference training.

E-361 Promoting Healthy, Vibrant Communities — Page JUDICIAL-39

VMware is used to manage our virtual servers. Decision unit E-362 funds attendance at the VMworld conference.

E-362 Promoting Healthy, Vibrant Communities — Page JUDICIAL-40

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 19

CHIEF JUSTICE HARDESTY:

The last decision unit for B/A 101-1483 is E-605.

E-605 Budget Reductions Staffing & Operations — Page JUDICIAL-40

This is an analyst position being held vacant until January 2023 because of the reduction in AA revenue. This position is important to the Court to conduct data analysis and provide support for various committees and commissions the Court establishes to make improvements to the judicial system.

As an example, the Court just completed a two-year analysis of the rules of criminal procedure. For the first time, a set of rules for criminal procedure was adopted and is applicable to every district court in the State. This uniform approach should provide improvements in the way lawyers practice in the criminal courts. Important in that process is having staff support that can collect, research, compile minutes, schedule meetings and host transparent communication and deliberations on the Supreme Court's website. This is another example of how the AA revenue issues impair the core functions of the Court as it seeks to improve the judicial system.

A recent petition, filed with the Supreme Court and due to be heard on March 3, asks the Court to study the subject of the use of specialty courts in the area of water law. This is a step forward for Nevada as we consider how matters are handled in the district courts around the State that adjudicate water law and water rights. Because of the lack of court staff support, I requested the State Engineer's Office help provide the staff support for the proposed commission, assuming it is approved by the Supreme Court. This effort is supported by many stakeholders around the State and is an example of the importance of this kind of staff support to enable us to perform these functions and conduct studies.

SENATOR RATTI:

If the economy turns around and AAs start to increase, would you fill that position earlier than December 2022?

CHIEF JUSTICE HARDESTY:

I would certainly like to be able to do that, but the Court has a number of priorities. The budgets we are presenting today do not reflect many cuts we

continue to make in addition to the cuts we made for the Thirty-first Special Session. If we had more funds, there would be other priorities we would like to address.

The next budget is B/A 101-1484, Judicial Programs and Services.
This budget has two reclassification requests, decision units E-225 and E-226.

E-225 Efficiency & Innovation — Page JUDICIAL-45
E-226 Efficiency & Innovation — Page JUDICIAL-45

The first is a reclassification of an administrative assistant II to administrative assistant III, and the other is reclassification of a court research analyst I to court research analyst II. These are not substantial dollar amounts, but are certainly important to the individuals performing these functions and the reclassifications expand the tasks that they can undertake.

This budget also includes the normal decision unit E-710 for replacement equipment.

E-710 Equipment Replacement — Page JUDICIAL-46
The budget for Uniform System of Judicial Records is B/A 101-1486. The enhancements requested are all IT upgrades.

MR. STEFANI:

Decision unit E-225 is for staff to travel to courts to bring up the newest version of the CMS. Our first court is scheduled to go live in May. We will be moving all of our courts off the CourtView CMS to the new JWorks system over the next three to four years.

E-225 Efficiency & Innovation — Page JUDICIAL-51

The PhoneTree is the system we use to call and remind individuals who have appointments in court. This system is no longer supported. Decision unit E-226 supports eCourtData software that can call, text or email individuals.

E-226 Efficiency & Innovation — Page JUDICIAL-51

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 21

Decision unit E-227 is for additional Crystal Server licenses. We have outside courts that have to wait until someone gets off the system to run their reports. This will increase the number of users who can run reports at the same time.

E-227 Efficiency & Innovation — Page JUDICIAL-51

We anticipate a large increase in traffic through MCIJIS. We need to put a load balancer in front with multiple application servers behind it to handle that traffic. Decision unit E-228 funds that.

E-228 Efficiency & Innovation — Page JUDICIAL-52

The MCIJIS system is set up to do warrants with only one partner—CCIJIS. Decision unit E-229 will modify the system to work with all of our partners to move warrants through.

E-229 Efficiency & Innovation — Page JUDICIAL-52

Decision unit E-230 of B/A 101-1486 will upgrade Crystal Reports software that will no longer be supported, and the normal replacement equipment decision unit is E-710.

E-230 Efficiency & Innovation — Page JUDICIAL-53

E-710 Equipment Replacement — Page JUDICIAL-54

CHIEF JUSTICE HARDESTY:

The next budget is Judicial Education, B/A 101-1487. Significant cuts were made to this account in response to the pandemic. We have transitioned almost all judicial education to a virtual environment. There have been benefits beyond lowering costs. There are areas within this account where we ultimately need to restore face-to-face education for judges around the State. We have not permitted out-of-state travel and have limited in-State travel.

The only enhancement in this budget is for routine equipment replacement, decision unit E-710.

E-710 Equipment Replacement — Page JUDICIAL-59

Specialty Courts, B/A 101-1495 is the next budget. We have a Statewide coordinator for all of the specialty courts. We are trying to improve the administration and coordination of the 61 specialty courts that exist around the State and develop uniform approaches to matters such as admittance requirements that lead to substance abuse treatment success. There is a need to have the Statewide coordinator travel to various specialty courts around the State to converse with the judges and staff operating the programs. Decision unit E-300 funds this travel.

E-300 Safety, Security and Justice — Page JUDICIAL-63

Decision unit E-710 funds replacement equipment.

E-710 Equipment Replacement — Page JUDICIAL-64

Page 21 of [Exhibit B](#) illustrates three other Judicial Branch budget accounts.

The Senior Judge Program allows for judges to fill in temporary vacancies when elected district court judges are ill or on vacation. In Nevada, we have 26 new judges recently elected. All of them must go to mandatory training at the National Judicial College which produces a vacancy that must be filled by senior justices and judges.

There has been an accumulating, significant backlog in the district courts. We hope to deploy some senior judges to reduce those backlogs on an ongoing basis.

Senior Justice & Senior Judge Program — Budget Page JUDICIAL-28 (Volume I)
Budget Account 101-1496

Judicial Support, Governance and Special Events B/A 101-1496 is funded through peremptory challenge fees and provides for district judge travel in the rural counties. Judge Jim Shirley services the Eleventh Judicial District which runs from Pershing County to Mineral County. He is probably on the road as much as he is in court.

We had a study conducted by the National Council of Juvenile and Family Court Judges, funded out of this account, to study the effectiveness and compliance

of family courts with the judicial and statutory expectations. That report is available on our website.

Judicial Support, Governance and Special Events — Budget Page JUDICIAL-66
(Volume I)

Budget Account 101-1493

The Judicial Retirement System State Share, B/A 101-1491, is, as its name implies, the district court judges' state portion of retirement funding.

Judicial Retirement System State Share — Budget Page JUDICIAL-68 (Volume I)
Budget Account 101-1491

The Governor's Finance Office suggested we move some budget items to one-shot requests. These are items the Legislature may consider funding if funds are available.

The first is the Statewide CMS. We have been working on this since 2013. Dissatisfied with the vendor's progress, we undertook arbitration and halted progress. Settlement negotiations put the project back online, but the negotiations continued even up to last week. I can now report we have made progress, and I expect some return of compensation. We have a new timeline for the fulfillment of the vendor's obligations. We should know by May if this is working out as planned. If it does, this funding will not be needed.

FY 2021 One-Shot: This request funds initial implementation of a Statewide case management system in the trial courts. (BUDGET OVERVIEW-25)

The 2019 Legislature approved funding for a feasibility study for Statewide e-filing. We could streamline many processes if all the courts had e-filing capabilities. As a result of the study, we would like to begin implementation. The request for \$1,336,800 from the General Fund starts that process.

FY 2021 One-Shot: This request funds initial implementation of a Statewide e-filing solution for local trial courts. (BUDGET OVERVIEW-25)

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 24

We need to replace aging IT infrastructure for disaster recovery. The request is for \$231,109 from the General Fund, over multiple budget accounts. The older IT infrastructure would be retained as a backup.

FY 2021 One-Shot: This request funds the replacement of computer hardware and software equipment. (BUDGET OVERVIEW-25)

ASSEMBLYWOMAN TOLLES:

There were a lot of IT enhancements with the explanation that they were necessary because of the need for coordination with other divisions' technical enhancements. There were also implied savings involved with those decision units in reductions in manpower hours and clearing backlogs. Is there any way to quantify that?

It appears the Judicial Branch only receives \$795,266 in federal funds. What are we doing to chase some more federal funding opportunities to offset some of our expenses.

CHIEF JUSTICE HARDESTY:

We will address both questions and provide responses to your staff.

ASSEMBLYWOMAN TITUS:

Did the Judiciary Branch get any funds from the Coronavirus Aid, Relief and Economic Security Act?

CHIEF JUSTICE HARDESTY:

We are being reimbursed for some of our administrative time related to Covid-19. The \$795,266 federal funds is the Court Improvement Project, which is funded for the purpose of protecting Nevada's children from abuse and neglect and also funds the coordinator for those activities. That is not related to Covid-19.

ASSEMBLYWOMAN TITUS:

How much did you receive for expenses related to Covid-19?

MR. MYLER:

In FY 2019-2020, we received just over \$300,000 for reimbursement for Covid-19 administrative time and purchase of personal protective gear and

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 25

related items. In FY 2020-2021, we have received about \$140,000 to date. We are still tracking those expenses and recouping the funds as we go.

CHAIR BROOKS:

We will move to B/A 101-1497, Judicial Discipline.

Judicial Discipline — Budget Page JUDICIAL-72 (Volume I)
Budget Account 101-1497

PAUL C. DEYHLE (General Counsel and Executive Director, Commission on Judicial Discipline; Standing Committee on Judicial Ethics):

I have provided the Committees with an outline of the budget ([Exhibit C](#)) and a memorandum addressing the Commission's critical need for an investigative attorney dated August 17, 2020, ([Exhibit D](#)).

The Commission is one of the smallest in the State with limited resources and staff. In the past, the Legislature has shown support for the Commission's work in carrying out its constitutional and statutory mandates. The Commission protects the public by means of enforcing the code of judicial conduct.

We have seen a significant increase in the number of judicial complaints filed with the Commission. In FY 2019-2020, we received 215 complaints resulting in 21 investigations. Investigations increase costs and use staff time and resources to process.

We have insufficient funding to continue investigating and prosecuting all complaints. The Commission has had to request contingency funds in each of the last three fiscal years, in addition to requesting supplemental appropriations. We may have to submit a supplemental appropriation request before the end of this fiscal year.

We lack the necessary staff to address the increase in the complaints received, and to address and defend the increased number of legal disputes brought against the Commission.

General Fund appropriations of \$8,946 in each year of the 2021-2023 biennium are needed as a technical adjustment to restore in-State travel funds inadvertently reduced in the base budget.

The most critical enhancement request is decision unit E-225, for an additional nonclassified attorney.

E-225 Efficiency & Innovation — Page JUDICIAL-74

Another attorney will allow the Commission to operate more efficiently and effectively. This will save taxpayer money. By law, when formal charges are filed against a judicial officer, we contract with prosecuting attorneys. They are not employees; they are independent of the Commission and paid by the hour. This can be expensive. We also use independent investigators who are also paid by the hour.

An additional attorney in the office will work with the contracted independent investigators, who are not experts in judicial discipline. As a case goes forward in the judicial discipline process, it gets to the point of a formal complaint and we have to hire a prosecuting officer. We pay prosecuting attorneys a lot more than we pay investigators. Since the investigators are not experts in this unique area of law, prosecuting officers have often had to reinvestigate witnesses or interview additional witnesses as they are preparing for trial. Over the last several years, that has added a significant amount to the costs of the Commission and resulted in the requests for contingency funds multiple times.

The requested additional attorney would also work on the Commission caseload, which has been increasing year by year. The attorney would help defend against various writs and appeals filed with the Supreme Court. It is not just judicial discipline cases—any member of the public can file a writ against the Commission. The Commission cannot predict how many writs will be filed.

We are involved in one case that has exhausted close to 80 percent of our operating budget. Add a few more cases, and we will have to come before the Interim Finance Committee (IFC) multiple times.

The other enhancement we are requesting is for three State-issued staff cell phones. This request was inadvertently excluded from the Executive Budget. In the Eightieth Legislative Session we were approved for two State-issued cell phones for the attorneys in the office. The additional phones are for staff. Staff communicates with judges, press, complainants and the public. The pandemic has resulted in staff often working from home, and they would prefer not to use

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 27

personal phones to conduct business. Complainants and the public can often be aggressive or threatening.

ASSEMBLYWOMAN CARLTON:

Do you have any idea when and for how much you will be requesting supplemental appropriations? The IFC needs to prepare for that.

MR. DEYHLE:

We do not know yet if we will need one. We hope we do not, but if another writ is filed unexpectedly, that would change the scenario. We have received IFC funds recently, and there is a work program on the next IFC agenda. We hope that will get us to the end of the fiscal year.

Depending on what is filed, the potential amount could be between \$40,000 and \$50,000.

ASSEMBLYWOMAN CARLTON:

Do let us know, so we can plan.

ASSEMBLYWOMAN TOLLES:

You said you have 215 complaints resulting in 21 investigations. How are those decisions made, and what happens to the rest of the complaints?

MR. DEYHLE:

Over 90 percent of complaints are dismissed on jurisdictional grounds, which is consistent across the Country. The Commission does not have, with certain enumerated exceptions, jurisdiction to move forward on decisional matters. If a judge makes a discretionary decision in a case, we do not have jurisdiction to move forward on it. That is the case with the overwhelming majority of complaints filed with the Commission, and they are dismissed by law.

The other 8 percent to 10 percent are investigated. The determination to investigate depends on if, in the determination of the Commission, there is misconduct that warrants an investigation.

CHAIR BROOKS:

Would the approval of a new investigative attorney lessen your dependence on contracted investigators and prosecutors?

MR. DEYHLE:

Yes, it would. The work the attorney would be doing would be prior to engagement of a prosecuting attorney, which happens at the beginning of the public process. The confidential phase is before formal charges are filed. Typically, prosecutors are not involved in the confidential phase unless a writ is filed with the Supreme Court or there is a suspension hearing.

The requested attorney, during the confidential phase, is critical in ensuring that when the case gets to the prosecutor there is not additional investigative work to be done. That does not happen all the time, but it is difficult for an investigator who is not a lawyer or an expert in judicial discipline to identify things during the investigation that may rise to the level of judicial misconduct. We anticipate the requested attorney position will identify those issues, thereby saving money and time.

Under law, when a formal charge is filed, the prosecuting officer files those charges and prosecutes the case. The time prosecutors are performing those key functions will not be reduced, but we anticipate their preparation time will be less. If we lack the funds necessary to handle these cases along with writs and appeals, we are faced with shutting down an investigation or prosecution of a case. This can be problematic due to statute of limitations issues. An additional attorney to assist and work on these matters will lessen the chances of the Commission having to stop work.

CHAIR BROOKS:

Could you quantify the expected reductions?

MR. DEYHLE:

Unfortunately, any forecasts I make would be inaccurate if just one or two complicated cases came up.

The Committees have received the justification memo, [Exhibit D](#), which goes into detail about the justification of our need for an additional investigative attorney.

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 29

CHAIR BROOKS:

If the requested position is approved, what is the plan for moving to a new location? It appears your current lease agreement does not expire until August 31, 2025.

MR. DEYHLE:

If we are approved for the new attorney, we would have to find space. We would look into having additional office space in our current building, which we share with the Governor's Office of Economic Development. There are other nearby buildings that may allow us to rent office space while our lease is ongoing. If necessary, we could bring another desk into our office, although that would not be our first choice.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Finance
Assembly Committee on Ways and Means
February 17, 2021
Page 30

CHAIR BROOKS:

Seeing no public comment, this meeting is adjourned at 10:02 a.m.

RESPECTFULLY SUBMITTED:

Barbara Williams,
Committee Secretary

APPROVED BY:

Senator Chris Brooks, Chair

DATE: _____

Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
	B	2	The Honorable James Hardesty	Judicial Branch Presentation
	C	1	Paul C. Deyhle, Commission on Judicial Discipline and Standing Committee on Judicial Ethics	Presentation B/A 101-1497
	D	1	Paul C. Deyhle	Memo Regarding Funding for Investigative Attorney